

This letter discusses sales for resale. Please see 86 Ill. Adm. Code 130.210. (This is a GIL.)

February 25, 2004

Dear Xxxxx:

This letter is in response to your letter dated November 22, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are in the process of updating our taxability guidelines for our beverage clients in regard to promotional and incentive items. Following is our fact pattern and questions:

Fact Pattern:

Company A is a manufacturer and distributor of non-alcoholic beverage products. Company A is in a very competitive market. In an effort to attract new accounts and retain existing accounts, Company A must often provide customers with promotional, incentive and resale items. Examples as follow:

- a. **Restaurant Account** – Company A provides restaurant accounts with an incentive amount to purchase various event/holiday items (i.e. hanging items, table tents, calendars, coasters, signs, etc.). The customer is given a incentive account (example \$100 for every 1000 cases sold). The customer can use these funds to purchase various event/holiday items of their choice. The customer cannot redeem the incentive amount for cash. Company A factors an overhead charge in the cost of their products to cover incentive programs.
- b. **School Account** – Company enters into contracts with various school districts. The contracts require that the school district sell a required quantity of Company A products for a period of time in exchange for various items (i.e. scoreboards, clocks, computers, etc.). The schools receive their items as they reach designated sales totals. Company A factors an overhead charge in the cost of their products to cover the school programs.

- c. **Giveaways** – on occasion, Company A provides promotional items to accounts with no purchase requirement restrictions.

Questions:

1. Do the items purchased by Company A for fulfillment of (a) and (b) above qualify for the 'resale' exemption since they are transferring the items to a customer for consideration?
2. Are there any special exemptions in your state for promotional items that contain Company A's name and/or logo?
3. Are there any exemptions in your state for items transferred (per b. above) or items given-away (per c. above) to tax exempt organizations or government?

We appreciate your assistance with this inquiry.

Please contact me if you have any additional questions regarding this inquiry. Please reference all applicable statutes and regulations in your written response. Please also note whether your responses are consistent for the prior three-year period (i.e. have there been any legislative or administrative changes).

You requested information regarding resale exemptions and promotional items. See 86 Ill. Adm. Code 130.210 and 130.2125.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk